

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

DONALD DAVIS,

Petitioner,

v.

ROCK COUNTY SHERIFF ROBERT SPODEN,
CHIEF DEPUTY BARBRA TILLMAN, C.O.
SCHILT, SGT. BEYER, SGT. BURDICK, SGT.
LALOR, SGT. SPRECHER, LT. RUSS STEEBER,
SGT. MUGHANI, C.O. CRAIG WEBERG, C.O.
MICHAEL SCHAUER, C.O. KRAHN, C.O.
SIMON, C.O. TAPP, C.O. TECHMEIER, R.N.
THAD, C.O. CLEASBY, C.O. VANDENBUREN,
RECORDS OFFICE MS. J and KLUSMEYER,

Respondents.

ORDER

08-cv-584-slc

On December 29, 2008, this court extended to January 20, 2009 the deadline for petitioner to submit either payment of \$.08 as an initial partial payment of the \$350 filing fee or a trust fund account statement beginning July 1, 2008 and ending January 1, 2009, showing that he has had no deposits to his account during that period. In this case, petitioner has not submitted the \$.08 initial partial payment or a trust fund account statement covering the period from July 1, 2008 to January 1, 2009. However, in another case in this court, Davis v. Spoden, 09-cv-2-bbc, petitioner submitted a trust fund account statement covering approximately this six-month period. From the statement, it appears that petitioner presently has no means with which to pay an initial partial payment of the \$350 fee for filing his complaint. However,

petitioner should be aware that he is obligated to pay the \$350 filing fee, even if this court determines that he will not be permitted to proceed with his complaint *in forma pauperis* and even if he does not presently have funds with which to pay the fee. 28 U.S.C. § 1915(b)(1). His account will be monitored and the fee must be taken in monthly installments when the funds exist.

Accordingly, IT IS ORDERED that petitioner's complaint is taken under advisement. As soon as the court's calendar permits, petitioner's complaint will be screened pursuant to 28 U.S.C. § 1915(e)(2) to determine whether the case must be dismissed either because the complaint is frivolous or malicious, fails to state a claim on which relief may be granted or seeks monetary relief against a defendant who is immune from such relief. Petitioner will be notified promptly when such a decision has been made.

Further, the clerk of court is requested to insure that the court's financial records reflect that petitioner owes the \$350 fee for filing this case, in accordance with the requirements of the Prison Litigation Reform Act.

Entered this 29th day of January, 2009.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge